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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,071	01/08/2002	Marc Michael Groz	MG022704USNP	4941
57572	7590	05/15/2007		
MARK S. NOWOTARSKI 30 GLEN TERRACE STAMFORD, CT 06906			EXAMINER HOEL, MATTHEW D	
			ART UNIT 3714	PAPER NUMBER
			MAIL DATE 05/15/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Interview Summary

Application No.

10/043,071

Applicant(s)

GROZ, MARC MICHAEL

Examiner

Matthew D. Hoel

Art Unit

3714

All participants (applicant, applicant's representative, PTO personnel):

(1) Matthew D. Hoel, examiner.

(3) Mark Nowotarski, agent.

(2) Xuan Thai, SPE.

(4) Marc Groz, applicant.

Date of Interview: 27 April 2007.

Type: a) ☒ Telephonic b) ☐ Video Conference  
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.  
If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: 42-49.


Identification of prior art discussed: Adao e Silva.

Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

  
XUAN M. THAI  
SUPERVISORY PATENT EXAMINER  
TC3700

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Examiner's signature, if required

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments:

Applicant's representative discussed the proposed exhibits (D-H, 4-20-2007) submitted to the Office and wanted to know if the exhibits (D-H) are sufficient to support the 1.131 Affidavit to antedate the Silva reference. Exhibit D is an unsigned affidavit from Ms. Juris stating that Mr. Groz told her of conceiving the features of the invention in Fall 2000 and that he had made a notebook entry. Exhibit E is a 2000 tax return for Mr. Groz' sole proprietorship, Applied Mathematics, establishing that he ran the business in 2000. Exhibit F is an e-mail (12-8-2000) from Trip Foster to Mr. Groz saying that Mr. Foster was preparing some documents for Mr. Groz. Exhibit G is a 12-13-2000 e-mail from Mr. Groz to Mr. Trip that Mr. Groz would be on vacation until 12-21-2000. Exhibit H is a 1-5-2001 from Mr. Trip to Mr. Groz indicating that Mr. Trip would update Mr. Groz when he knew "more on the Legal front this afternoon."

Regarding the Exhibits of 8-2-2006, Exhibit A is a signed affidavit from Ms. Juris stating that Mr. Groz disclosed to her the features of the independent claim before 12-7-2000 and that she had observed Mr. Groz make a notebook entry. Exhibit B is an undated notebook entry concerning a LottaVest lottery with a positive expected rate of return ("Lottery w/ Positive ER"). Exhibit C is an 1120S tax return from Mr. Groz' Quaternion Group, Inc. corporation, indicating that he was running the business. On 8-2-2006, Mr. Groz submitted a signed affidavit that he had disclosed the limitations of the invention to Ms. Juris and recorded a notebook entry before 12-7-2000 and was diligent in reduction to practice.

As currently submitted exhibits are insufficient to establish conception and diligence as detailed in the examiner's Office action, SPE Thai suggested applicant should consider submitting other pages in Marc Groz' notebook indicating that other claim limitations were conceived before the 12/07/00 date of Silva. Xuan Thai also mentioned *Bosies v. Benedict*, 30 USPQ2d 1862 (Fed. Cir. 1994). Matt Hoel pointed out MPEP 715.04 discussing eligibility to submit a 1.131 affidavit. Hoel also pointed out Groz' vacation from Dec. 13-21, indicating this might be a lack of diligence in reduction to practice. Mr. Nowotarski indicated he would submit case law concerning this. Mr. Nowotarski believed Mr. Groz started working on the Specification around 01/06/2001. The express mailing labels of the provisional applications indicated 01/08/2001 mailing. Mr. Nowotarski believes 4:4-13 of Silva teaching the funds the game proceeds can be invested in does not support "these assets having a positive expected return over a period of time such that the expected value of the assets at the end of the time period is greater than or equal to the financial consideration less the prize pool funds." The examiner disagreed. The examiner believes the various investments show the intent by the investors for the value of the funds to increase. The examiner intended the rejection of Claim 47 to be worded: "Moreover, it appears that '053, or the applicant's invention, would perform equally well modified such that the residual value, the expected rate of return on the assets, the period of time, and the prize pool are chosen such that the expected rate of return of the game is greater than the expected rate of return of a conservative investment." The examiner reconsidered the allowability of the dependent claims previously indicated as allowable (claims 46, 47, 49) on the 5/3/2006 office action and indicated them obvious on the 12/13/06 action in light of Silva. Upon reconsideration, the examiner did not believe they were significant enough in light of the gist of the invention as claimed in Clm. 42 to be allowed, so they were rejected as obvious on 12/13/06. These claims could not be explicitly read into the Silva reference. No agreement was reached.

<b>Applicant Initiated Interview Request Form</b>				<b>RECEIVED</b>	
				<b>CENTRAL FAX CENTER</b>	
Application No.: 10/043071		First Named Applicant: Groz			
Examiner: Matthew D. Hoel		Art Unit: 3714		Status of Application: Pending <b>APR 20 2007</b>	
<b>Tentative Participants:</b>					
(1) Mark Nowotarski (agent)		(2)			
(3) Matthew D. Hoel (examiner)		(4) Xuan Thai (SPE)			
Proposed Date of Interview: April 25, 2007		Proposed Time: 2:00 PM (AM/PM)			
<b>Type of Interview Requested:</b>					
(1) <input checked="" type="checkbox"/> Telephonic    (2) <input type="checkbox"/> Personal    (3) <input type="checkbox"/> Video Conference					
Exhibit To Be Shown or Demonstrated: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO					
If yes, provide brief description: Additional evidence to be presented to support swear back of Silva					
Issues To Be Discussed					
Issues (Rej., Obj., etc)	Claims/ Fig. #s	Prior Art	Discussed	Agreed	Not Agreed
Confirm that additional exhibits to be submitted will support swear back of Silva			<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
[x] Continuation Sheet Attached					
Brief Description of Arguments to be Presented:					
See Attached Sheet					
<i>phone interview held 4-25-2007</i>					
<b>NOTE:</b> This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01). This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.133(b)) as soon as possible.					
Applicant/Applicant's Representative Signature			Examiner/SPE Signature		
Typed/Printed Name of Applicant or Representative Mark Nowotarski					
Registration Number, if applicable 47,828					

This collection of information is required by 37 CFR 1.133. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

<b>Applicant Initiated Interview Request Form (cont)</b>			<b>RECEIVED CENTRAL FAX CENTER</b>
Application No.:10/043,071	First Named Applicant: Groz	<b>APR 20 2007</b>	
Examiner: Matthew D. Hoel	Art Unit: 3714	Status of Application: Pending	

**Items to be discussed.**

Applicant would like to confirm that the additional attached exhibits along with the supplemental declaration below by Applicant will be adequate to swear back of Silva. New exhibits D, E, F, G and H are attached.

**Proposed supplemental declaration by Applicant**

I, Marc Michael Groz, sole inventor in the above referenced application, declare as follows:

1. That sometime prior to December 7, 2000, I conceived of the invention claimed in the above referenced application.
2. That sometime prior to December 7, 2000, I disclosed said invention to Ms. Robbin Frances Juris as evidenced by exhibits A and D.
3. That sometime prior to December 7, 2000, I recorded a note in my personal notebook describing the essential features of the invention as evidenced by exhibits A, B and D.
4. That said note of exhibit B reads "LottaVest – Lottery w/ positive ER" as evidenced by exhibit D.
5. That the phrase "LottaVest – Lottery w/positive ER" means "Lottery Investment – Lottery with positive expected return" as evidenced by exhibits A and D.
6. That I worked diligently to reduce the invention to constructive practice from sometime prior to December 7, 2000 until January 8, 2001, at which time the invention was constructively reduced to practice by the filing of US provisional patent application serial number 60/260547 entitled "Enhanced Gaming System".
7. That any other lapses in diligence between December 7, 2000 and January 8, 2001 were due to the demands of earning a living. At that time I was the president and sole proprietor of The Quaternion Group, Inc. of NY, as evidenced by exhibits C and E.
8. That the demands of earning a living included soliciting new clients and providing consulting services in ecommerce, financial markets, and innovative applications of information technology as evidenced by exhibit F, G and H.
9. That from December 13, 2000 through December 21, 2000 I was on vacation as evidenced by exhibit F.



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April 19, 2007

Examiner Matthew D. Hoel  
Art Unit 3713  
USPTO  
Alexandria, VA 22313-1450  
fax 571 273 5961

9 pages total including cover page

Subject: Applicant Interview Request Form re application 10/043,071

Dear Examiner Hoel,

Attached please find an Applicant Initiated Interview Request Form for the above referenced application as associated exhibits. Please do NOT enter these into the record for said application.

The interview will be telephonic and is scheduled for Wednesday, April 25 from 2 pm to 3 pm Eastern Daylight Time.

Please call me at 203 975 7678 at that time.

I look forward to speaking to you and SPE Thai then.

Sincerely,

Mark Nowotarski  
Reg. No. 47,828  
Agent of Record

The information contained in this communication is confidential and may be legally privileged. It is intended solely for the use of the individual or entity to whom it is addressed and others authorized to receive it. If you are not the intended recipient please immediately destroy all copies. You are also hereby notified that any disclosure, copying, distribution or taking any action in reliance on the contents of this information is strictly prohibited and may be unlawful. Markets, Patents & Alliances, LLC is neither liable for the contents, nor for the proper, complete and timely transmission of the information contained in this communication.

30 Glen Terrace, Stamford, CT 06906  
tel 203.975.7678 fax 203.973.0010  
mnowotarski@marketsandpatents.com

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APR 20 2007



## UNITED STATES PATENT AND TRADEMARK OFFICE

### Facsimile Transmission

To:                      Name:                      USPTO  
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From:                   Name:  
                            Voice Phone:

37 C.F.R. 1.6 sets forth the types of correspondence that can be communicated to the Patent and Trademark Office via facsimile transmissions. Applicants are advised to use the certificate of facsimile transmission procedures when submitting a reply to a non-final or final Office action by facsimile (37 CFR 1.8(a)).

Fax Notes:

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Date and time of transmission: Friday, April 20, 2007 2:24:50 PM  
Number of pages including this cover sheet: 10

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APR 20 2007

Exhibit D

unsigned  
affidavit  
MDH

Ms. Robbin Frances Juris  
1450 Washington Blvd., Apt. S-1602  
Stamford, CT 06902

**SUPPLEMENTAL DECLARATION REGARDING THE CONCEPTION OF  
"METHOD AND SYSTEM FOR INCREASING EXPECTED RETURN AND  
MAXIMUM PAYOUT IN A GAME OF ONE OR MORE PLAYERS"**

To whom it may concern:

In the Fall of 2000, my husband, Marc Groz, told me that he had a "billion dollar idea" for a "revolutionary" new type of game. Quite excitedly, he described an "epiphany" that he had had while collecting his mail at a Mailboxes Etc. outlet (located at 244 Madison Avenue in New York City) that also sold lottery tickets. He told me that as he watched a customer at this store discard a losing ticket, dropping it onto the floor into a pile of other losing tickets, he thought to himself "What if these tickets retained value?" This thought became the basis for the "no-lose game" that he then went on to describe to me.

As he explained it, this new type of game would be a "residual-value game" in which a player would buy a lottery ticket, for example, and over time recoup what he or she paid for the ticket plus appreciation—regardless of whether or not the player was a winner. He explained that a percentage of the ticket price would go towards the prize pool, another portion toward administrative and computer costs and other overhead, and another portion would be invested in, say, an IRA-like account or some other type of investment on behalf of the player. This last portion, he explained, would be the source of the residual value, so that after, say, a period of 20 years, the player could cash out the assets in the IRA-like



account or other investment. He also explained to me that because of appreciation, these assets would be expected to exceed the price of the original ticket, thereby turning every player into a "winner" even if he or she did not win the prize pool. We discussed the positive social ramifications this new type of game could have, for example, residual value accounts becoming retirement nest eggs for players.

My husband also shared with me his initial thought for a name for his new invention: "LottaVest". In his enthusiasm, he showed me the small notebook in which he recorded this name as well as other jottings related to the invention.

I further declare that within this declaration, all statements made of my own knowledge are true and that all statements made on information and belief are believed to be true. I further state that the above statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that any such willful false statements may jeopardize the validity of the above referenced patent application or any patent issuing therefrom.

---

Ms. Robbin Frances Juris

---

Date

## Exhibit E

(U40)		(Sole Proprietorship)		2000
Department of the Treasury Internal Revenue Service (99)		▶ Partnerships, joint ventures, etc., must file Form 1065 or Form 1065-B. ▶ Attach to Form 1040 or Form 1041. ▶ See instructions for Schedule C (Form 1040).		AZARDYM Sequence No. 09
Name of proprietor <b>MARC M GROSZ</b>			Social security number (SSN) [REDACTED]	
A Principal business or profession, including product or service (see page C-1 of the instructions) <b>Applied Mathematics (Center of Mathematical Models for Bioris)</b>			B Enter code from pages C-7 & 8 <b>15411700</b>	
C Business name. If no separate business name, leave blank.			D Employer ID number (EIN, if any)	
E Business address (including suite or room no.) City, town or post office, state, and ZIP code				
F Accounting method: (1) <input checked="" type="checkbox"/> Cash (2) <input type="checkbox"/> Accrual (3) <input type="checkbox"/> Other (specify) ▶				
G Did you "materially participate" in the operation of this business during 2000? If "No," see page C-2 for limit on losses. <input type="checkbox"/> Yes <input type="checkbox"/> No				
H If you started or acquired this business during 2000, check here <input type="checkbox"/>				
<b>Part I Income</b>				
1 Gross receipts or sales. Caution: If this income was reported to you on Form W-2 and the "Statutory employee" box on that form was checked, see page C-2 and check here <input type="checkbox"/>			1 [REDACTED]	
2 Returns and allowances			2 [REDACTED]	
3 Subtract line 2 from line 1			3 [REDACTED]	
4 Cost of goods sold (from line 42 on page 2)			4 [REDACTED]	
5 Gross profit. Subtract line 4 from line 3			5 [REDACTED]	
6 Other income, including Federal and state gasoline or fuel tax credit or refund (see page C-2)			6 [REDACTED]	
7 Gross income. Add lines 5 and 6			7 [REDACTED]	
<b>Part II Expenses. Enter expenses for business use of your home only on line 30.</b>				
8 Advertising			8 [REDACTED]	
9 Bad debts from sales or services (see page C-3)			9 [REDACTED]	
10 Car and truck expenses (see page C-3)			10 [REDACTED]	
11 Commissions and fees			11 [REDACTED]	
12 Depreciation			12 [REDACTED]	
13 Depreciation and section 179 expense deduction (not included in Part II) (see page C-3)			13 [REDACTED]	
14 Employee benefit programs (other than on line 19)			14 [REDACTED]	
15 Insurance (other than health)			15 [REDACTED]	
16 Interest			16 [REDACTED]	
16a Mortgage (paid to banks, etc.)			16a [REDACTED]	
16b Other			16b [REDACTED]	
17 Legal and professional services			17 [REDACTED]	
18 Office expense			18 [REDACTED]	
19 Pension and profit-sharing plans			19 [REDACTED]	
20 Rent or lease (see page C-4):			20 [REDACTED]	
a Vehicles, machinery, and equipment			20a [REDACTED]	
b Other business property			20b [REDACTED]	
21 Repairs and maintenance			21 [REDACTED]	
22 Supplies (not included in Part II)			22 [REDACTED]	
23 Taxes and licenses			23 [REDACTED]	
24 Travel, meals, and entertainment:			24 [REDACTED]	
a Travel			24a [REDACTED]	
b Meals and entertainment:			24b [REDACTED]	
c Enter nondeductible amount included on line 24b (see page C-5)			24c [REDACTED]	
d Subtract line 24c from line 24b			24d [REDACTED]	
25 Utilities			25 [REDACTED]	
26 Wages (less employment credits)			26 [REDACTED]	
27 Other expenses (from line 48 on page 2)			27 [REDACTED]	
28 Total expenses before expenses for business use of home. Add lines 8 through 27 in columns			28 [REDACTED]	
29 Tentative profit (loss). Subtract line 28 from line 7			29 [REDACTED]	
30 Expenses for business use of your home. Attach Form 8829			30 [REDACTED]	
31 Net profit or (loss). Subtract line 30 from line 29.			31 [REDACTED]	
• If a profit, enter on Form 1040, line 12, and also on Schedule SE, line 2 (statutory employees, see page C-5). Estates and trusts, enter on Form 1041, line 3. • If a loss, you must go to line 32.				
32 If you have a loss, check the box that describes your investment in this activity (see page C-5).				
• If you checked 32a, enter the loss on Form 1040, line 12, and also on Schedule SE, line 2 (statutory employees, see page C-5). Estates and trusts, enter on Form 1041, line 3. • If you checked 32b, you must attach Form 8198.				
			32a <input checked="" type="checkbox"/> All investment is at risk.	
			32b <input type="checkbox"/> Some investment is not at risk.	
For Paperwork Reduction Act Notice, see Form 1040 instructions. Cal. No. 11334P Schedule C (Form 1040) 2000				

## Exhibit F

Page 1 of 1

Subj: Legal  
Date: 12/08/2000 10:07:45 PM Eastern Standard Time  
From: [REDACTED] (Trip Foster) To: MarcMGroz@cs.com

An update;  
Our lawyers are in the process of preparing documents for this type of relationship. I will get the documents to you as soon as they are returned to me. Thanks for your patience. Have a great weekend.—Trip

---

Trip Foster  
VP Marketing  
Net Exchange

## Exhibit G

Page 1 of 1

Subj: MY SCHEDULE  
Date: 12/13/2000  
To: [REDACTED]

Trip.

I'll be on vacation through next Wednesday, back in the office on the 21st.

Best regards,

Marc M. Groz  
President  
The Quaternion Group, Inc.  
[REDACTED]

The Quaternion Group, Inc. is a consulting firm specializing in ecommerce, financial markets, and innovative applications of information technology. Established in 1992, it works with global companies as well as with startups.

Marc M. Groz, founder and president, is a mathematician specializing in financial markets and information technology. His research has been written about in Business Week, The New York Times, and The Wall Street Journal. He is author of Forbes Guide to the Markets (Wiley, 1999), and dozens of articles on finance and technology.

## Exhibit H

Page 1 of 1

Subj: quick update  
Date: 01/05/2001 5:55:22 PM Eastern Standard Time  
From: [REDACTED] Trip Foster) To: MarcMGroz@cs.com

Marc-

i will know more on the Legal front this afternoon. I will email you or call you with details. Quick unrelated question: Has there been any status change on the Lehman project?

Trip

-

---

Trip Foster  
VP Marketing  
Net Exchange